

HALAKHA

Temporary structures and similar cases – בנין עראי והדומים – ל: The Sages decreed that one may not do anything on a Festival that is similar to building, unless he does so in an unusual manner and does not build from bottom to top. Therefore, one may not place a pot on top of stones, but rather he should hold up the pot and someone else should position the stones beneath it. Even when arranging eggs and similar items, one should do so from above to below. Similarly, a table whose sides reach the ground should be set up in an irregular fashion, although a normal table that rests on separate legs may be handled in the usual manner. Some say that even if the sides of the table close off the space underneath, it is permitted in the usual manner if he has no need for that space (Rema, citing Rashba; *Shulhan Arukh, Orach Hayyim* 502:1; 315:6).

LANGUAGE

Market [*hinga*] – חנגא: This term means holiday or celebration in Aramaic. It probably came to mean market due to the fact that the major market days were held on gentile festive days, as was the case in most countries until recent generations.

וכן ביעתא. וכן קדרה, וכן פוריא, וכן חביתא.

And similarly, if one wishes to place eggs on the mouth of a hollow vessel or on a grill sitting above coals, he must first hold the vessel in his hands and put the eggs on it, and only afterward position them both on the coals. And similarly, with regard to a pot^N placed on barrels, one must hold the pot above the barrels before placing them underneath it. And similarly, in the case of a collapsible bed, whose legs and cover are separate pieces, one must first stretch the upper part, then add the legs. And similarly, in the case of barrels positioned one on top of the other, the upper one must be held in place first and then the others added below.^{HN}

‘ואין סומכין את הקדרה בבקעת, וכן בדלת’. בדלת סלקא דעתך? אלא אימא: וכן הדלת. תנו רבנן: אין סומכין את הקדרה בבקעת וכן הדלת, לפי שלא נתנו עצים אלא להסקה, ורבי שמעון מתיר.

It was taught in the mishna: **And one may not prop a pot with a piece of wood, and similarly a door.** The Gemara asks: **With regard to a door, can this enter your mind?** Is it possible to prop a pot by means of a door? **Rather, say and correct the wording as follows: And similarly, one may not prop a door with a piece of wood. The Sages taught: One may not prop a pot with a piece of wood, and similarly a door, as wood is to be used only for kindling.**^N With regard to any use other than kindling, wood is considered *muktze*. **And Rabbi Shimon, who does not accept the prohibition of *muktze*, permits it.**

ואין מנהיגין את הבהמה במקל ביום טוב, ורבי אלעזר ברבי שמעון מתיר. לימא רבי אלעזר ברבי שמעון כאבוח סבירא ליה דלית ליה מוקצה? לא, בהא אפילו רבי שמעון מודה, משום דמחזי כמאן דאזיל לחנגא.

The *baraita* continues: **And one may not lead an animal with a stick on a Festival, but Rabbi Elazar, son of Rabbi Shimon, permits it.** The Gemara asks: **Shall we say that Rabbi Elazar, son of Rabbi Shimon, holds in accordance with the opinion of his father,**^N **Rabbi Shimon, who is not of the opinion that there is a prohibition of *muktze*, and he therefore permits one to take any stick and lead an animal with it?** The Gemara rejects this: **No, there is no issue of *muktze* here at all, for in this case even Rabbi Shimon concedes to the first *tanna* that this activity is prohibited, not due to *muktze* but because one who does so looks like one who is going to the market [*hinga*]^L in the manner of a weekday. On a Festival, one must therefore lead the animal in an unusual fashion.**

NOTES

And similarly a pot – וכן קדרה: This is not referring to placing a pot on a stove or anything similar, but rather to a pot placed on stones or on other pots, as mentioned previously, which constitutes the making of a tent (*Shitta Mekubbetzet; Yam Shel Shlomo*).

Making a temporary structure – עשית מבנה עראי: As the sources indicate, and as is logical, not every placement of a cover is considered construction. There are several criteria involved. *Tosafot* state that placing a cover on an item is considered as building only if the item already has proper sides. The Rosh maintains that placing a cover is considered building only when the item has at least four sides. The later authorities discuss whether two suffice. The Rashba adds another condition, citing *Tosafot*: A construction of this kind is deemed significant, and therefore prohibited, only if the space between the sides will be used. The mere creation of a space, e.g., placing a folding bed on its legs, is not itself prohibited.

Wood is only for kindling – לא נתנו עצים אלא להסקה: The early authorities discuss this issue at great length in an attempt to identify the guiding principle behind the different *halakhot*. Rashi and *Tosafot* disagree in this regard. Rashi maintains that taking wood for any purpose other than kindling is prohibited due to *muktze*. Some authorities accept this explanation;

however, they do not rule in accordance with it, as they follow Rabbi Yehuda in cases concerning *muktze* on a Festival (see Rif).

Others claim that this discussion supports Rabbi Zerahya HaLevi's approach, that the prohibition of *muktze* on a Festival is in essence a decree due to Shabbat. He maintains that only something that is prohibited for use on Shabbat is prohibited due to *muktze* on a Festival. Firewood, which may not be handled on Shabbat, as it is unfit for any use, is permitted to be handled on a Festival only for the particular purpose of food preparation.

The Ritva writes that the prohibition is a decree lest one fashion vessels out of raw materials (see Rashba and others).

Shall we say... holds in accordance with the opinion of his father – לימא... כאבוח סבירא ליה: The *Penei Yehoshua* wonders at this question, for the Gemara in *Shabbat* (44a) indicates that Rabbi Elazar, son of Rabbi Shimon, follows the opinion of his father with regard to *muktze* and even adopts a more lenient position. Some offer the following answer: Since there is a principle that the *halakha* is stringent with regard to *muktze* on a Festival, it is possible that in this case, Rabbi Elazar, son of Rabbi Shimon, prohibits leading an animal with a stick, in accordance with the opinion of Rabbi Yehuda (see *Tziyyun LeNefesh Hayya* and others).

Bamboo – חזרא: One may not pick up a moist piece of wood on a Festival in order to use it as a skewer, but one may do so if it is dry and fit for firewood (*Shulhan Arukh, Orach Hayyim 502:3*; see comment of Rema and Magen Avraham there).

נטילת אוד – נטילת אוד: On a Festival, it is prohibited to take a piece of wood from designated firewood and use it as a firebrand. This is considered making a vessel, as stated by Rava. It is likewise prohibited to take a piece of wood to use as a bar to lock a gate, unless one prepared it for this purpose the day before (*Taz, Shulhan Arukh, Orach Hayyim 507:3*).

NOTES

נטילת אוד מן – נטילת אוד: Rashi explains that since the firebrand was not fashioned into a vessel before the Festival began, it is set aside for its primary purpose, which is as firewood. Rabeinu Tam suggests a different reason for this halakha: It appears as though one is mending a vessel, for this firebrand now serves as an oven utensil (see *Ba'al Halakhot Gedolot*). Rabeinu Peretz suggests a similar explanation, adding that according to this understanding, even Rabbi Shimon accepts this halakha.

חזרא, רב נחמן אסר ורב ששת שרי. בריבא – כולי עלמא לא פליגי דאסור, כי פליגי – ביבשתא. מאן דאסר, אמר לך: לא נתנו עצים אלא להסקה. ומאן דשרי, אמר לך: מה לי לצלות בו, מה לי לצלות בגחלתו?

S In a case where one takes a bamboo^{HB} branch to use as a skewer, Rav Nahman prohibits it because it is *muktze*, since it was not made into a vessel the day before, and Rav Sheshet permits it. The Gemara elaborates: In the case of a wet branch, everyone agrees that it is prohibited; it is unfit for kindling and is therefore *muktze*. When they disagree, it is in the case of a dry branch. The one who prohibits handling it, Rav Nahman, could have said to you: Wood is only for kindling, but it is considered *muktze* with regard to any other use. And the one who permits handling it, Rav Sheshet, could have said to you: Since all wood is to be used for roasting, what is it to me to roast with it when it is inserted into meat? What is it to me to roast with its coals? Just as it is permitted to burn the bamboo as coal, so it is permitted to use it as a skewer for cooking.

איכא דאמרי: ביבשתא – כולי עלמא לא פליגי דשרי, כי פליגי – בריבשתא. מאן דאסר – דלא חזי להסקה, ומאן דשרי, אמר לך: הא חזי להיסק גדול. והלכתא: יבשתא – שרי רביבשתא – אסור.

Some say a different version of the explanation of this dispute: In the case of a dry branch, everyone agrees that it is permitted; when they disagree, it is in the case of a wet one. The one who prohibits handling it does so because it is not fit for kindling. And the one who permits it could have said to you: Isn't it at least fit for a large fire, which will dry out the branch and enable it to burn as well? The Gemara concludes: And the halakha is that a dry one is permitted and a wet one is prohibited.

דרש רבא: אשה לא תכניס לדיר העצים ליטול מהן אוד, ואוד שנשבר אסור להסיקו ביום טוב, לפי שמסיקין בכלים ואין מסיקין בשברי כלים.

Rava taught: A woman may not enter a storehouse of wood in order to take from them a firebrand,^{NH} a partly burnt piece of wood used for turning over the wood of the bonfire, because this piece of wood was not made into a vessel the day before and it is therefore *muktze*. And a firebrand that broke may not be kindled on a Festival, for one may kindle fire with vessels but one may not kindle fire with shards of vessels, and this firebrand was considered a vessel before it broke.

למימרא דרבא פרבי יהודה סבירא ליה דאית ליה מוקצה? והא אמר ליה רבא לשמעיה: טוי לי בר אווא, ושדי מעיה לשינרא! התם, כיון דמסרחי – מאתמול דעתיה עלויה.

The Gemara asks: Is that to say that in this case Rava holds in accordance with the opinion of Rabbi Yehuda, who is of the opinion that there is a prohibition of *muktze*? But didn't Rava say to his attendant: Roast a duck for me, and throw its innards to the cat? According to Rabbi Yehuda, it is prohibited to give the innards to animals, as they were not prepared for this purpose the day before. The Gemara answers: There, since the innards become rancid when they were left, from yesterday, the Festival eve, his mind was on them. At that point in time, he already intended to give them to the cats in his house.

BACKGROUND

Bamboo [hizra] – חזרא: The *hizra*, or the *hizran* in modern Hebrew, is in all probability a species of bamboo, from the Poaceae family. The Gemara here is probably referring to a particular strain, *Bambusa arundinacea*, a prickly shrub 3–6 m in height. When the tree is young, its branches are flexible and drooping. The thorns grow from the joint between the leaves and the stem. The bamboo is native to Southeast Asia and India, from where it seems to have spread to Babylonia in the talmudic period.



Bamboo forest

NOTES

A person may remove a sliver that is before him – נוטל אדם קיסם משלפניו: Before him means near him, not necessarily immediately in front of him (Rambam's Commentary on the Mishna). Many commentaries explain that Rabbi Eliezer in fact permits removing a sliver in all cases, not only when the sliver is before him. He chose this formulation to teach that the Rabbis are stringent even in that case, and they are certainly stringent with regard to an oven that has not been used at all (see Rashi and Rabbeinu Peretz). Others, however, claim that Rabbi Eliezer permitted one to take only a sliver that is before him, for in such a situation it can be said that one intended beforehand to use the straw also for cleaning his teeth; in other cases, it is not permitted to do so (Rabbi Aharon Halevi; see Rashba and Meiri).

HALAKHA

One may not produce fire – אין מוציאין את האור: It is prohibited to produce a new fire on a Festival, either from wood, stones, or from anything else that is not actual fire. It is even prohibited to light a match by pressing it against a hot object that is not burning (Arukh HaShulhan; Mishna Berura), as this is considered the creation of something new, which qualifies as an item that came into being [nolad] (Shulhan Arukh, Orach Hayyim 502:1). Some understand the prohibition of producing new fire as the source for the prohibition of the use of electricity on Festivals.

מתני' רבי אליעזר אומר: נוטל אדם קיסם משלפניו לחצוץ בו שיניו, ומגבב מן החצר ומדליק, שכל מה שבחצר מוכן הוא. וחכמים אומרים: מגבב משלפניו ומדליק.

אין מוציאין את האור לא מן העצים ולא מן האבנים ולא מן העפר, ולא מן הרעפים ולא מן המים. ואין מלבנין את הרעפים לצלות בהן.

MISHNA Rabbi Eliezer says: On a Festival, a person may remove a sliver from a pile of straw or from similar material that is before him,^N in order to clean with it between his teeth. And he may collect straw from a courtyard and kindle it, for anything in a courtyard is considered prepared for all purposes. The Rabbis say: He may collect these materials only from things placed before him in his house, as they are certainly prepared for all uses, and kindle them. With regard to objects lying in his courtyard, however, as their collection takes great effort, he certainly did not have them in mind the day before, and they are therefore *muktze*.

The mishna states a different *halakha*: **One may not produce fire,^{HB} neither from wood, by rubbing one piece against another; nor from stones knocked against each other; nor from hot dirt; nor from tiles struck against each other; nor from water placed in round, glass vessels, which produces fire by focusing the rays of the sun. And similarly, one may not whiten tiles with a burning-hot heat in order to roast upon them afterward.**

גמ' אמר רב יהודה: **GEMARA** Rav Yehuda said:

BACKGROUND

Producing fire – הוצאת אש: The making of fire from wood, stones, and tiles is based on a single principle: The creation of heat and sparks. This is accomplished by rubbing wood together, by tapping one stone on another, or by striking steel and similar materials, similar to the method used in modern lighters.

The production of fire from water is performed by means of filling a round glass container with water that, similar to a glass lens, focuses the sun's rays (see Rashi).

Several explanations have been offered for the production of fire from dirt. One possibility is that they used organic matter, such as cow dung, that had rotted to such an extent that it heated up of its own accord and burned. Alternatively, water was poured onto lime or other materials that heat up upon contact with the water. This caused a wick of chaff or cotton wool to ignite.

Perek IV
Daf 33 Amud b

אוכלי בהמה אין בהן משום תקון בלי.

Animal fodder, such as straw and reed branches, does not have any associated prohibition due to the preparing of a vessel.^H One may therefore trim it on Shabbat and use it as one wishes.

HALAKHA

תיקון בלי באוכלי – הבהמה: Use of animal fodder is not considered making a vessel. One may therefore trim straw or thatch, even with a knife, in order to clean his teeth. However, one may not even handle a wood sliver for this purpose, as it is not animal fodder. Some say that if one did not have a sliver ready and could not prepare

one before Shabbat, he may clean his teeth with a sliver. This applies only in those places where people are particular about cleaning their teeth, due to the leniency of protecting human dignity (Magen Avraham). In this regard, there is no difference between Shabbat and Festivals (Shulhan Arukh, Orach Hayyim 322:4, 519:4).

Wood of a spice tree – עצי בשמים – Rashi explains that it is permitted to handle wood of a spice tree because it is fit for animal fodder. Others, however, maintain that just as animal fodder is permitted in its own right, so it is permitted to handle wood of a spice tree due to its use to perfume the air. The discussion here relates only to using wood of a spice tree for other purposes (Rabbi Aharon HaLevi; Rashba).

Now, exempt but prohibited, etc. – השתא פטור אבל אסור – ר"ר: The commentators struggle to explain this passage. Many accept a different version of the text, which adds a question and an answer at this stage (see *Tosafot* and others). The discussion then proceeds as follows: Rabbi Yehuda outright rejected the *baraita* that reads: Liable to bring a sin-offering, for he believed the text was clearly corrupted. Then Rav Kahana answered that the *baraita* can indeed be understood if one distinguishes between soft and hard pieces of wood.

The alternate version then presents a difficulty concerning the opinion of Rav Yehuda with regard to hard pieces of wood, for it has been demonstrated that Rav Yehuda would even in practice make use of hard wood of a spice tree. Rav Yehuda's basic response is that the stringent *baraitot* follow Rabbi Eliezer, whereas the lenient ones are in accordance with the opinion of the Rabbis, and he rules according to the latter. According to this explanation, the entire passage forms one continuous discussion (see Rashba; Rav Yitzhak Abuhav).

Crush it...cut it – מוללו...קוטמו – If it is permitted to cut it, one may certainly crush it; why is it necessary to specify both cases? Since crushing produces a smell, one might have thought it should be prohibited due to the prohibition of creation [*molid*].

Soft and hard – רכים וקשים – According to Rashi, the main difference between hard and soft pieces is that the former are unfit for animal fodder. Others explain that the use of a hard piece of wood is actually considered the making of a vessel, whereas soft ones are not made into a vessel at all (Rid and others).

HALAKHA

Using wood of a spice tree – שימוש בעצי בשמים – It is permitted to handle pieces of wood of a spice tree in order to smell them or wave them before either an invalid or a healthy person. One may similarly cut them by hand, but not with an implement. One may also crush wood of a spice tree in order to smell it, whether it is hard or soft, but only if this merely serves to add to its fragrance; if he creates a new fragrance, it is prohibited, due to the prohibition of creation [*molid*] (*Magen Avraham; Shulhan Arukh, Oraḥ Hayyim* 322:5).

איתבייה רב כהנא לרב יהודה: מטלטלין עצי בשמים להריח בהן, ולהניף בהן לחולה, ומוללו ומריח בו. ולא יקטמנו להריח בו, ואם קטמו – פטור אבל אסור. לחצוץ בו שיניו – לא יקטמנו, ואם קטמו – חייב תטאת.

Rav Kahana raised an objection to Rav Yehuda from the following *baraita*: **One may handle wood of a spice treeⁿ on Shabbat in order to smell them and to wave them before a sick person to fan him. And he may crush it between his fingers to release its fragrance, and he may smell it. However, he may not cut it from the branch in order to produce a moist spot on the branch that will emit a strong fragrance, so as to smell it; and if he did cut it, he is exempt from punishment according to Torah law, but it is prohibited to do so. If he intends to clean his teeth with it, he may not cut it, and if he did cut it, he is liable to bring a sin-offering for transgressing a prohibited labor on Shabbat.** This indicates that although some wood of a spice tree was used as animal fodder, it is nevertheless prohibited to cut it. This appears to contradict Rav Yehuda.

Rav Yehuda said to Rav Kahana: **Now, even the statement exempt but prohibitedⁿ poses a difficulty to my opinion, and it is not reasonable. Is it required to say the opposite, i.e., liable to bring a sin-offering?** This teaching cannot be understood at face value; rather, it must be understood as follows: **When that baraita was taught, it was referring to hard pieces of wood such as beams, with regard to which there is a concern that one might perform a prohibited labor. The Gemara questions this: And can hard branches be crushed by hand?**

The Gemara replies: **The baraita is incomplete and is teaching the following: With regard to wood of a spice tree, one may crush it and smell it and cut itⁿ and smell it. In what case is this statement said? With regard to soft pieces of wood, but with regard to hard ones, one may not cut them. And if he did cut it he is exempt, but it is prohibited to do so. If he intended to clean his teeth with it, he may not cut it, and if he did cut it, he is liable to bring a sin-offering.**

Similarly, it is taught in one *baraita*: **One may cut it and smell it, and it is taught in another baraita: One may not cut it to smell it.** Rabbi Zeira said that Rav Hisda said: **This is not difficult. In this case, when it is permitted, it is referring to soft wood. In that case, where the baraita prohibits it, it is referring to hardⁿ pieces of wood.^h**

With regard to the *halakha* itself, **Rav Aḥa bar Ya'akov strongly objects to this: With hard ones, why not? In what way is this case different from that which we learned in a mishna: A person may break a barrel in order to eat dried figs from it, provided that he does not thereby intend to make a vessel, and he may use the barrel afterward. Breaking off wood in order to smell it is certainly not more of a prohibited labor than breaking a barrel. And furthermore, it is Rava bar Rav Adda and Ravin bar Rav Adda, who both say: When we were at the house of Rav Yehuda, he would break and give us many sticks of wood of a spice tree, although they were hard enough to be fit for handles of axes and hatches.**

The Gemara answers: **This is not difficult; this case is in accordance with the opinion of Rabbi Eliezer, whereas that case follows the Rabbis. As it is taught in a baraita: Rabbi Eliezer says: On Shabbat or a Festival, a person may take a sliver of wood from before him to clean his teeth with it, and the Rabbis say: One may take a toothpick only from an animal's trough; since it is fit for animal fodder, it is considered prepared for all purposes. And they agree that he may not pluck it. And if he did pluck it to clean his teeth with it or to use it as a key and open a door with it, if he did so unwittingly on Shabbat, he is liable to bring a sin-offering. If he did so intentionally on a Festival, he receives the forty lashes administered to one who desecrates the Festival by performing labor. These are the words of Rabbi Eliezer.**

אמר ליה: השתא פטור אבל אסור? קא קשיא לי, חייב תטאת מבעיא? אלא, בי תניא ההיא – בקשין. קשין בני מליה נגהו?

חסורי מחסרא והכי קתני: מוללו ומריח בו, קוטמו ומריח בו. במה דברים אמורים – ברבין, אבל בקשין – לא יקטמנו, ואם קטמו – פטור אבל אסור. לחצוץ בו שיניו – לא יקטמנו, ואם קטמו – חייב תטאת.

תני חדא: קוטמו ומריח בו, תניא איך: לא יקטמנו להריח בו. אמר רבי יודא אמר רב חסדא: לא קשיא: הא – ברבין, הא – בקשין.

מתקיף לה רב אחא בר יעקב: בקשין אמאי לא? מאי שנא מהא דתנן: שובר אדם את החבית לאכול ממנה גרוגרות, ובלבד שלא יתכוין לעשות כלי, ועוד, הא רבא בר רב אדא ורבין בר רב אדא דאמרי תרוניהו: בי הוינן בי רב יהודה, הוה מפשח ויהיב לן אלותא אלותא, אף על גב דתוויא לקתא דנגי וחציני.

לא קשיא: הא – רבי אליעזר, הא – רבנן. דתניא, רבי אליעזר אומר: נוטל אדם קיסם משלפניו לחצוץ בו שיניו, וחכמים אומרים: לא יטול אלא מאבוס של בהמה. ושין שלא יקטמנו, ואם קטמו לחצוץ בו שיניו ולפתוח בו הדלת, בשוגג בשבת – חייב תטאת, במזיד ביום טוב – סופג את הארבעים, דברי רבי אליעזר.

BACKGROUND

A person may break a barrel – שובר אדם את החבית – The barrel referred to here is an amphora-shaped earthenware vessel with an elongated mouth, usually closed up with a stopper sealed with mud. As the vessel was not particularly expensive, people would sometimes spare themselves the effort of removing the stopper by slicing off the upper part of the barrel. This act of breaking is permitted on a Festival only if one does not thereby intend to make the bottom part of the barrel into a functional vessel.



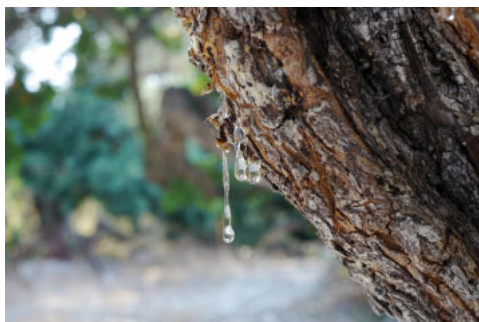
Amphorae

LANGUAGE

Vessel patched with pitch [mustaki] – מוסקתי: From the Greek μαστικη, mastiki, which refers both to the mastic tree and the resin extracted from it.



Branch of a mastic tree



Resin dripping from the bark of the mastic tree

וחכמים אומרים: אחד זה ואחד זה אינו אלא משום שבות. רבי אליעזר דקאמר התם חייב חטאת – הכא פטור אבל אסור, רבנן דקא אמרי התם פטור אבל אסור – הכא מותר לכתחלה.

ולית ליה לרבי אליעזר הא דתנן: שובר אדם את החבית לאכול ממנה גרוגרות, ובלבד שלא יתכוין לעשות כלי? אמר רב אשי: כי תניא ההיא – במוסקתי.

“ומגבב מן החצר”. תנו רבנן: מגבב מן החצר ומדליק, שכל מה שבחצר מוכן הוא, ובלבד שלא יעשה צבורין צבורין, ורבי שמעון מותר. במאי קא מפלגי? מר סבר: מחזי דקא מכניף למחר וליומא אחריונא, ומר סבר: קדרתו מוכחת עליו.

And the Rabbis say: Both this and this, whether one did so on Shabbat or a Festival, even if he plucked it by hand to use it as a key, it is prohibited only due to a rabbinic decree.^N Therefore, Rabbi Eliezer, who states there that one who plucks a toothpick on Shabbat unwittingly in order to make a vessel such as a key is liable to bring a sin-offering, then here, in the case of one who cuts a sliver of wood in order to smell it, he is exempt, but it is prohibited. However, the Rabbis who state there, in the case of plucking a toothpick, that he is exempt but it is prohibited, then here, when one cuts a sliver of wood for purposes of smelling, it is permitted *ab initio*.

The Gemara asks: And does Rabbi Eliezer not accept this halakha that we learned^N in a mishna: A person may break a barrel^{BH} in order to eat dried figs from it, provided that he does not thereby intend to make a vessel? This shows that if one does not intend to make a vessel, it is permitted *ab initio*; whereas Rabbi Eliezer maintains that he is exempt, but it is prohibited. The Gemara answers: Rav Ashi said: When that baraita was taught, its lenient ruling was with regard to a vessel patched with pitch [mustaki],^{LN} meaning a vessel that had previously been broken and its pieces glued together with pitch. If one breaks it for his own needs, he does not smash a complete vessel, and he is therefore not considered to have fashioned a vessel.

It is taught in the mishna: And one may collect straw from the courtyard on a Festival. The Sages taught: One may collect materials from a courtyard^N and kindle a fire because everything in a courtyard is considered prepared, provided he does not arrange it in piles, and Rabbi Shimon permits it even in such a manner. The Gemara asks: With regard to what do they disagree; what is the basis of their dispute? One Sage, i.e., the Rabbis, who are stringent, holds: It looks as though he is collecting for tomorrow and another day, and it is therefore prohibited, so that one will not be suspected of preparing from a Festival to a weekday. And one Sage, Rabbi Shimon, holds: His pot proves his intention. When onlookers see that he is using the straw for cooking, they will not suspect him of preparing for after the Festival.

NOTES

It is prohibited only due to a rabbinic decree – אינו אלא – behind this ruling, Rashi maintains that it is because in breaking a barrel one may make a new vessel. However, there is no prohibition in breaking open a vessel patched with pitch, as it is already broken. The Ran offers an alternative reason: A vessel patched with pitch has no importance, and the prohibitions against building and dismantling do not apply to such vessels. The later authorities attempt to show that Rashi also accepts the Ran's reasoning.

And does Rabbi Eliezer not accept this that we learned – ולית ליה לרבי אליעזר הא דתנן: Zziyyun LeNefesh Hayya wonders at the wording of the Gemara here. If Rabbi Eliezer is himself a tanna, how can a mishna be cited in objection to his view? Some answer that the question is not addressed to Rabbi Eliezer but to the Gemara itself: If the matter is indeed a dispute between Rabbi Eliezer and the Rabbis, how should one explain the mishna (Sefat Emet)?

Vessel patched with pitch – מוסקתי: Rashi explains that this is referring to a barrel glued together with pitch or resin. Alternatively, it means a barrel sealed with dried figs (Rabbeinu Hananel), or simply one that is broken. As for the reasoning

behind this ruling, Rashi maintains that it is because in breaking a barrel one may make a new vessel. However, there is no prohibition in breaking open a vessel patched with pitch, as it is already broken. The Ran offers an alternative reason: A vessel patched with pitch has no importance, and the prohibitions against building and dismantling do not apply to such vessels. The later authorities attempt to show that Rashi also accepts the Ran's reasoning.

One may collect materials from a courtyard, etc. – מגבב מן – The early authorities (Ran and others) note that this passage fits well with the Rambam's opinion that the labor of binding applies only to items collected from their place of growth. If they are gathered from elsewhere it is considered collecting, which is not a full-fledged labor. In the Jerusalem Talmud, it is simply stated that Rabbi Eliezer does not categorize the making of piles as a prohibited labor at all, which means his view is identical to that of Rabbi Shimon. Several early authorities state likewise.

HALAKHA

Breaking a barrel – שבירת חבית: If one glued together the pieces of a broken barrel with pitch, he may break it, either by hand or with an implement in order to remove its contents, provided he does not intend to make a neat hole that can serve as a permanent opening. This ruling applies to a barrel

that holds less than forty se'a, which has the status of a vessel. In a time of need, however, one may break even a complete vessel, provided that it does not contain forty se'a, and that one's act of breaking does not make it into a vessel (Shulhan Arukh HaRav; Shulhan Arukh, Orah Hayyim 314:1).

Because he creates – משום דקא מוליד – משהו חדש, אבל זה לא אומר שזה אסור. יש כותבים שכתבו שיש להקדים את האור וכו'. מאי טעמא – משום דקא מוליד ביום טוב.

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HALAKHA

Whitening tiles – ליבון רעפים: On a Festival, one may not heat stones until they whiten. Some claim that it is prohibited to do so only with tiles, even if one does so in order to roast or cook on them because he thereby hardens them. Some say that it is prohibited only with new tiles (*Mishna Berura*). Others maintain that the prohibition applies even to old ones (*Magen Avraham; Taz*, based on Rambam; *Shulḥan Arukh, Oraḥ Hayyim* 508:1).

HALAKHA

Trampled or...crushed – דרוסה ורצועה: If a fowl was trampled by a person's foot or by an animal, if it was thrown against a wall or some other hard surface, or if a heavy object fell on it, there is a concern that its limbs might have been crushed. If it does not stand up of its own accord, it may be slaughtered only after a twenty-four-hour waiting period. If one slaughtered it within this time, it is prohibited to eat it even if it was subsequently found not to be a *tereifa*. If it survives twenty-four hours, it is permitted to slaughter it, but only after it has been examined, in accordance with the opinion of Rabbi Elazar ben Antigonus (*Shulḥan Arukh, Yoreh De'a* 58:2–3).

Slaughtering a crushed fowl on a Festival – שחיטת הרצועה: If a fowl might have had its limbs crushed, it is permitted to slaughter it on a Festival, and there is no concern that it might be discovered to be a *tereifa*, in accordance with the opinion of the Rif and the Rambam, who maintain that this issue was resolved by Rabbi Zeira. Nowadays, the custom is to refrain from slaughtering on a Festival, but one may slaughter birds if necessary. One may be lenient and slaughter a bird if even if there is concern that its limbs might have been crushed, on condition that twenty-four hours have passed (*Mishna Berura*, citing *Hayyei Adam*; see *Magen Avraham; Shulḥan Arukh, Oraḥ Hayyim* 498:8).

It is taught in the mishna that **one may not produce new fire** on a Festival in any manner. The Gemara asks: **What is the reason for this?** The Gemara explains: **Because he createsⁿ** something new on a Festival. This is similar to an act of creation, and it is therefore prohibited.

The mishna states that **one may not whiten tiles^h** by heating them, in order to roast food on them. The Gemara asks: **What does one thereby do;** since his intention is to prepare food, how does this differ from any other manner of roasting? **Rabba bar bar Ḥana said that Rabbi Yoḥanan said: Here we are dealing with new tiles,** and it is prohibited because

it is necessary to test themⁿ to ensure that they do not burst when heated. If they are heated for the first time on a Festival, he will be thereby testing them, which is a prohibited labor. **And some say: Because it is necessary to harden them** by overheating them the first time to make them fit for use, which is considered preparing a vessel for use and is prohibited on a Festival.

In relation to the above, the Gemara cites the following teaching: **We learned in a mishna there: If one trampled fowl with his foot, or threw it against a wall, or if an animal crushed^h it, and it is twitching but cannot stand; if the animal waited, i.e., remained alive, from the time of the injury until the same time twenty-four hours later, and he subsequently slaughtered it, it is kosher,** provided no other defect is found in it that would have caused it to die within twelve months, which would render it a *tereifa*.ⁿ **Rabbi Elazar bar Yannai said in the name of Rabbi Elazar ben Antigonus: It requires examination after slaughtering, to make sure it does not have a defect.**

In relation to the same issue, **Rabbi Yirmeya inquired of Rabbi Zeira: What is the halakha with regard to slaughtering it on a Festival?**^h **Do we assume on a Festival that it has a flaw or not?** In other words, may one rely on the assumption that a typical chicken has no defect? Or perhaps, since there is concern with regard to this particular bird and it requires examination, one should refrain from slaughtering it lest it turn out to be a *tereifa*. If so, he will have performed labor for no purpose.

NOTES

It is necessary to test them – צריך לבדוק: This is the only reason cited in the Jerusalem Talmud, which distinguishes between tiles that have been examined and those that have not. *Tziyyun LeNefesh Hayya* attempts to relate this view to the Rambam's approach, which maintains that the major concern is neglect of the joy of the Festival.

A tereifa due to crushed limbs – טריפה של ריסוק אברים: The various kinds of *tereifa* are categorized into broad types of

injuries, most of which involve broken bones or torn or missing limbs. However, one type of *tereifa* occurs when the animal's limbs are crushed, although no particular bone has been found broken, for sometimes trampling or crushing is itself enough to kill an animal. Yet unlike other *tereifot*, the status of the animal in this case is determined after twenty-four hours rather than twelve months. If the fowl or animal lives for longer than this, it can be assumed that its limbs have not been crushed.

Perek IV

Daf 34 Amud a

שצריך לבדוק, ואמרי לה: מפני שצריך לחסמו.

תנן התם דרסה, או שטרפה בכותל, או שרצתה בהמה, ומפרקסת ושהתה מעת לעת ושחטה – כשרה. אמר רבי אלעזר בר ינאי משום רבי אלעזר בן אנטיגנוס: צריכה בדיקה.

בעא מיניה רבי ירמיה מרבי זירא: מהו לשחטה ביום טוב? מי מחזקינן רעותא ביום טוב, או לא?